

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CORNELIUS J. CLEMONS, r,

Plaintiff,

v.

MIKE DEWINE et al.,

Defendants.

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Case No. 2:19-mc-00044

JUDGE ALGENON L. MARBLEY

Magistrate Judge Vascura

OPINION AND ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Appeal *In Forma Pauperis* and Motion for Relief from Magistrate Judge Vascura's September 3, 2019 and September 6, 2019 Orders declining to permit Plaintiff to file a new civil action. (Docs. 6 & 7.) For the reasons set forth below, the Court **DENIES** Plaintiff's Motion for Relief [#7] and **CERTIFIES** that any appeal would not be taken in good faith [#6].

1. Motion for Relief [#7]

In *Clemons v. Kasich*, 18-cv-01217, Plaintiff was deemed a vexatious litigator and enjoined from filing any new actions without either: (a) submitting a certification from an attorney who is licensed to practice in this Court or the state of Ohio, attesting that there is a good faith basis for the claims Plaintiff seeks to assert; or (b) tendering a proposed complaint for review by this Court prior to filing. (18-cv-01217, Doc. 10.) This designation was triggered by the fact that Plaintiff

had previously filed several related lawsuits, which were subsequently dismissed, attempting to recover worker's compensation benefits.¹ (*Id.*)

In the current action, Plaintiff has submitted both a proposed Complaint and an Amended Complaint alleging, among other things, that Defendants -- who include the Governor of Ohio and the Ohio Attorney General -- violated his 5th and 14th Amendment Constitutional rights by denying him nearly \$3 million in worker's compensation benefits. Magistrate Judge Vascura issued two Orders, one on September 3, 2019 and another on September 6, 2019, finding that Plaintiff's proposed Complaints lacked a good faith basis to proceed. Accordingly, Magistrate Judge Vascura declined to permit Plaintiff to file a new civil action.

Plaintiff has moved, pursuant to Federal Rule of Civil Procedure 60(b), for relief from Magistrate Judge Vascura's Orders. This Court, however, also finds that Plaintiff's proposed Complaints lack a good faith basis to proceed. Like Plaintiff's previously dismissed actions, the Complaints in this case allege that he was deprived of worker's compensation benefits. The Court is unable to find anything distinguishable in these new Complaints that suggests Plaintiff's claims are non-frivolous. Accordingly, the Court **DENIES** Plaintiff's Motion for Relief [#7].

2. Motion for Leave to Appeal *In Forma Pauperis* [#6]

Plaintiff has also filed a Motion for Leave to Appeal *In Forma Pauperis*. For the same reasons stated above, the Court **CERTIFIES** that any appeal would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.").

¹ *See Clemons v. Ohio Bureau of Workers Compensation*, 15-cv-00964; *Clemons v. Ohio Bureau of Workers' Compensation*, 17-cv-00175; *Clemons v. Ohio Bureau of Workers' Compensation*, 17-cv-00213; *Clemons v. Ohio Bureau of Workers' Compensation*, 17-cv-00501; *Clemons v. Governor John Kasich*, 18-cv-01217; *Clemons v. Kasich*, 18-cv-00954.

IT IS SO ORDERED.

/s/ Algenon L. Marbley
ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: October 16, 2019